



# ARIZONA

## REAL ESTATE BULLETIN

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December  
1999

*On-line Edition*  
[www.re.state.az.us](http://www.re.state.az.us)

## New Law Book available in print and on the Web

The 1998-1999 edition of the *Arizona Real Estate Law Book* is now available.

The publication contains all 1998 and 1999 amendments and additions to Arizona Real Estate Statutes, the 1999 version of the Commissioner's Rules, and other statutes of interest to real estate professionals.

The new edition is published by West Group, the same company that publishes the bound volumes of Arizona Revised Statutes found in most

*Continued on page 15*

## Experior testing centers open in Phoenix, Tucson

As reported in our October issue, the Department has selected Experior Assessments, L.L.C. of Salt Lake City to administer the Department's examinations.

Testing centers are now open in Phoenix at 8900 N. 22nd Ave., Suite 205 and at 1033 E. Jefferson St., Suite 501. In Tucson, the testing center is located at 6375 Tanque Verde, Suite 208. The Flagstaff center is at 2615 N. 4th St., Suite 8.

If you visit the Department's Web site at [www.re.state.az.us](http://www.re.state.az.us) you will find detailed maps depicting these locations, a telephone number for each testing center, and the Experior Candidate Handbook in Adobe Acrobat format.



### Architectural gem wins 'Oward'

Bill Gray's Arizona School of Real Estate and Business has won an "Orchid Oward" for its building at 7142 E. First Street in Scottsdale. The honor was bestowed by the annual Orchids & Onions Owards in which the public votes on the best (Orchids) and worst (Onions) architecture in the Valley. "The Arizona School of Real Estate just feels good," the judges said. The building, which opened one year ago, replaced the school's previous Scottsdale campus established in 1969.

## Department proposes changes to real estate statutes

The Department has published proposed changes to real estate statutes to be introduced in the first regular session of the 2000 Legislature. The legislation will be sponsored by Sen. Tom Freestone.

The following are the proposed changes. Language to be deleted is shown in ~~strike through~~ type; language to be added is shown in ALL CAPS.

32-2101(6) "Blanket encumbrance" means any mortgage, any deed of trust or any other encumbrance or lien, securing or evidencing the payment of money and affecting more

than one lot, ~~or~~ parcel ~~of subdivided land~~ OR INTEREST IN A DEVELOPMENT, or an agreement affecting more than one lot, ~~or~~ parcel OR INTEREST IN A DEVELOPMENT by which the ~~subdivider~~ DEVELOPER holds the ~~subdivision~~ DEVELOPMENT under an option, contract to sell or trust agreement. Blanket encumbrance does not include taxes and assessments levied by public authority.

*Language cleanup and clarification.*

32-2101(11) "Cemetery broker"

*Continued on page 2*

## Legislation

*Continued from page 1*

means a person other than a real estate broker or real estate salesperson who, for another, for compensation:

Sells, leases or exchanges cemetery property or interment ~~services of or for another, or on his own account~~ RIGHTS.

Offers ~~for another or for his own account~~ to buy, sell, lease or exchange cemetery property or interment ~~services~~ RIGHTS.

Negotiates the purchase, ~~and~~ sale, lease or exchange of cemetery property or interment ~~services~~ RIGHTS.

Negotiates the purchase, ~~or~~ sale, lease or exchange, or lists or solicits, or negotiates a loan on or leasing of cemetery property or interment ~~services~~ RIGHTS.

*Language cleanup.*

32-2101(45) "PROVISIONAL LICENSE" MEANS A LICENSE THAT IS ISSUED BY THE DEPARTMENT PURSUANT TO SECTION 32-2153

UNDER WHICH THE LICENSEE MAY PRACTICE AS A SALESPERSON OR BROKER SUBJECT TO THE TERMS, CONDITIONS AND RESTRICTIONS AS DETERMINED BY THE COMMISSIONER OR SECTION 32-2153.01 SUBJECT TO THE TERMS, CONDITIONS AND RESTRICTIONS AS AGREED BY THE COMMISSIONER AND LICENSEE.

*Defines provisional license.*

32-2101(46) "REAL ESTATE EMPLOYMENT AGREEMENT" MEANS A WRITTEN AGREEMENT BY WHICH A REAL ESTATE BROKER IS ENTITLED TO COMPENSATION FOR SERVICES RENDERED, PURSUANT TO A.R.S. 44-101(7).

*Defines real estate employment agreement.*

32-2104(A) There shall be a real estate advisory board composed of ~~seven~~ NINE members who shall be appointed by the governor. The term of office of each member shall be six years, the terms of ~~two~~ THREE members to expire January 31 each odd

numbered year. ~~except that each third-odd-numbered year the terms of three members shall expire.~~ Appointment to fill a vacancy occurring other than by expiration of term shall be filled by appointment for the unexpired portion of the term only.

*Increases the number of advisory board members from seven to nine.*

32-2104(B) The membership of the board shall consist of:

Two members who have each been, for five years, a real estate broker actively engaged in business as such in this state, not more than one member shall be appointed from any one county.

Two members who shall be primarily engaged in subdividing real property.

Three public members who are not related within the third degree consanguinity or affinity to any person holding a broker's or ~~salesman's~~ SALESPERSON'S license from this state.

TWO MEMBERS WHO HAVE

*Continued on page 10*

## Victims receive \$56,000 from Real Estate Recovery Fund

In October we reported a \$7,000 payment against the license of John Anthony Longo as a result of a judgment against him for property mismanagement. Another payment has been made against Longo's license based on the same type of conduct, but in an unrelated case. Longo failed to pay over \$7,000 in net rent proceeds to duPont. On June 1, 1999, Maricopa County Superior Court Judge William David Anderson ordered \$9,203 paid from the Fund to JoAnne duPont of Mesa, Arizona, which included her attorney's fees and costs.

Yet another Recovery Fund payout this year involved property mismanagement by a licensed broker, John Kereny of Paramount Realty, Inc. Like Longo, Kereny failed to pay property management proceeds to clients. Kereny also failed to properly supervise the activities of Milton Sky, the owner and an unlicensed employee of Paramount Realty. Sky's license had been revoked in 1990. On September 27, 1999, Court Commissioner Colosi ordered that \$11,914.77 be paid to John and Marian Hub and the Marian J. Hub Living Trust. This claim, which had been consolidated with claims

by two other victims, was paid pursuant to an agreement among all parties to the consolidated cases. The other victims' claims against Kereny are still pending. Other payouts this year were the result of judgments resulting from fraud and misrepresentations in connection with the purchase and sale of real estate.

On February 12, 1999, Maricopa County Superior Court Judge William J. Schafer ordered the Recovery Fund to pay \$20,000 to Kim Morris and her husband Thomas Schultz of Phoenix as reimbursement of a portion of the losses they sustained at the hands of real estate salesman Jason Clayton. In the underlying real estate transaction, the victims had given Clayton a down payment for an offer on a house, but Clayton pocketed the money and never presented their offer. Morris and Schultz had obtained an uncollectible civil judgment against Clayton on August 21, 1998. Clayton had been convicted in Maricopa County Superior Court on August 19, 1997, of attempted fraudulent schemes, a class 3 felony, for the Morris transaction and one other. At the time of sentencing in the criminal case, Judge

Kenneth Magnum ordered Clayton to forfeit his Arizona real estate license. Commissioner Holt then ordered revocation of Clayton's license retroactive to August 19.

In another case, the Fund paid \$14,897.50 against the license of Prescott broker Vivian Stanford. Judge William Kiger entered judgment against Stanford and her husband Weston Stanford in Yavapai County Superior Court in May 1998, which included findings that Stanford made misrepresentations to her clients, plaintiffs Roger and Doreen Watson. Stanford assured Watsons that the buyers she presented had good credit and access to the funds necessary to close the sale when they did not. The judgment concluded that Stanford breached her contractual obligation and awarded \$13,472.09. On January 29, 1999, Judge Kiger entered an order for payment of \$14,000 from the Recovery Fund, however payment was delayed because Stanfords filed bankruptcy. As a result, plaintiffs incurred additional attorneys' fees and Judge Kiger entered a supplemental order in June for payment of an additional \$897.50 from the Fund.



Jerry Holt

## News From The Commissioner

### Lombardo v. Albu

The Attorney General's Office has filed an *amicus curiae* petition with the Arizona Supreme Court in which I am asking the Court to review the Court of Appeals' opinion in *Lombardo v. Albu*. The Plaintiffs, sellers in a residential real estate transaction, claimed that the buyers' real estate agent breached her duty of disclosure by failing to inform them of her clients' financial difficulties.

The Court of Appeals held that the Commissioner's Rules, A.A.C. R4-28-101 to -1313, do not create a duty to disclose material information that is enforceable in tort.

In other words, the Court said the sellers cannot sue the buyer's agent even though the agent violated a Commissioner's Rule. I feel that, if upheld, this opinion would seriously undermine the Commissioner's Rules and the Department's duty to protect the public.

Quoting selected portions of the petition:

"The regulations at issue here are A.A.C. R4-28-1101(A) which imposes a duty upon all real estate agents to 'deal fairly' with all parties to a real estate transaction, and R4-28-1101(B) which requires a real estate agent participating in a real estate transaction to disclose to all other parties any information in his possession that materially and adversely affects the transaction including information that the buyer may be insolvent. The Court's determination that the Commissioner's Rules do not create an enforceable duty is inconsistent with the legislative intent of protecting the public in the real estate licensure statutes.

"The Commissioner urges this Court to grant the Petition because the Court of Appeals' conclusion that the

Legislature did not intend to create a private right of action fails to consider the Commissioner's ability to order restitution under A.R.S. § 32-2154, and the real estate recovery fund statute, A.R.S. § 32-2186(A), which specifically recognizes a private cause of action for injuries resulting from a violation of the Commissioner's Rules. The decision thus undermines the public protection purpose of the real estate licensure statutes.

"The Commissioner is also interested in obtaining clarification from the Court regarding the scope and effect of a real estate agent's duty to deal fairly with all parties to a transaction.

"Moreover, the Court of Appeals' opinion creates confusion by suggesting that the buyers' agent not only had no duty to the sellers to disclose her clients' precarious financial condition, but that she may have owed a duty to her clients not to disclose the information."

The brief also argues that the Court of Appeals' decision conflicts with the Arizona decisions that have applied the Commissioner's Rules in private causes of action.

Finally, the brief argues that the Court of Appeals' decision incorrectly suggests that an agent may have a conflict with his own client if the agent follows the Commissioner's Rules.

"The *Lombardo* decision suggests that an agent may have a conflict with her duties to her principal by complying with the Commissioner's Rules. This creates a legal 'Catch-22' for licensees who endeavor to comply with their professional obligations without subjecting themselves to either tort liability or disciplinary action.

"The Court of Appeals held...that 'recognizing duties to other parties to the

principal's transaction undercuts the agent's duty to her principal to the extent that the principal's interest differ from those of the other parties to the transaction.' The Court, nevertheless, recognized that the Commissioner's Rules are enforceable in disciplinary actions. As a result, *Lombardo* requires real estate agents to choose either to refrain from disclosing material information about a principal in a real estate transaction and risk license suspension or revocation, or make the disclosure and risk tort liability.

"Stated plainly, the *Lombardo* decision sets an unwise and unworkable legal precedent for real estate licensees in Arizona."

Whether the Supreme Court will consider the petition is not known. However, I believe it will, partly because of the very excellent legal brief filed by Michael Denious and Robert Zumoff of the Office of the Arizona Attorney General.

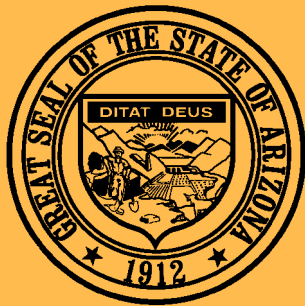
### New legislation

The Department's proposed legislation described in detail in the story on page 1 will be introduced by Sen. Tom Freestone when the Legislature convenes next month. While some of these proposals are "housekeeping" items, several of the more substantive changes are the result of input of industry groups and others over the past year.

The proposed legislation can also be viewed on the Department's Web site ([www.re.state.az.us](http://www.re.state.az.us)). You will be able to follow the progress of the bill there.

Should you have any comments on the proposals, please let me know.

And finally, you have my best wishes for a Merry Christmas and a prosperous New Year.



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## 1999 - 2000 Schedule of Broker Audit Clinics

A.R.S. § 32-2136 requires all newly licensed real estate brokers to attend a Broker Audit Clinic presented by the Department within 90 days of issuance of their original broker's license. *Effective July 21, 1997, all designated real estate brokers must also attend a Broker Audit Clinic within 90 days after becoming a designated broker unless the broker has attended an audit clinic during the broker's current licensing period.* All designated brokers shall attend a broker audit clinic once during every four-year period after their initial attendance.

Seating is limited and reservations are required. To make a reservation for a Phoenix clinic, call the Department's Customer Services Division at (602) 468-1414, extension 100. In Tucson, call (520) 628-6940. Those who fail to make reservations will be turned away if seating is not available. Brokers who attend will receive three hours of continuing education credit in the category of Commissioner's Standards.

The following is the schedule of Clinics to be offered in Phoenix and Tucson during the remainder of 1999 and in 2000. Additional clinics may be scheduled from time to time at other locations in Phoenix and in rural areas. **Call the Department at (602) 468-1414 X100 for information about these Clinics: January 12 in Scottsdale; January 22 in Bullhead City; March 29 in Sedona.**

### PHOENIX

Industrial Commission Auditorium  
800 W. Washington

**1 p.m. to 4 p.m.**  
**1999**

December 16 (filled)

### 2000

January 20  
February 17  
March 16  
April 20  
May 18  
June 15  
July 20  
August 17  
September 21  
October 19  
November 16  
December 14

### TUCSON

State Office Building  
400 W. Congress  
Room 222

**1 p.m. to 4 p.m.**  
**1999**

December 15

### 2000

January 19  
February 16  
March 15  
April 19  
May 17  
June 14  
July 19  
August 16  
September 20  
October 18  
November 15  
December 13

The mission of the  
Arizona Department of Real Estate  
is to safeguard and promote the public interest  
through timely and capable assistance,  
fair and balanced regulation,  
and sound and effective education.



## ADMINISTRATIVE ACTIONS

### REVOCATIONS

**99A-055**

**Terry Jon Scarabino**  
**Mesa**

DATE OF ORDER: November 16, 1999

FINDINGS OF FACT: Respondent disclosed a December 31, 1997 felony DUI conviction in Mesa City Court in his September 29, 1998 salesperson's license renewal. The Department granted renewal of the license. Respondent failed to disclose that he was arrested on December 14, 1997 on two counts of aggravated DUI, one count of possession of a drug substance and one count of possession of drug paraphernalia, and that court action was pending at the time he submitted his renewal application.

In January 1999, Respondent was convicted of the two class 4 felony DUI charges, one count of possession of marijuana, a class 6 felony, and possession of drug paraphernalia, a class 6 felony. Respondent was sentenced to probation and five months in jail.

VIOLATIONS: Respondent attempted to procure a license by fraud, misrepresentation or deceit, or by filing a renewal application which was false or misleading in violation of A.R.S. § 32-2153(B)(1). Respondent has been convicted of a felony in violation of A.R.S. § 32-2153(B)(2).

DISPOSITION: Respondent's real estate salesperson's license is revoked.

### LICENSE RENEWAL APPLICATIONS GRANTED

**99A-082**

**Kenneth Walker Dix**  
**Scottsdale**

DATE OF ORDER: October 4, 1999

FINDINGS OF FACT: Petitioner was issued an original real estate salesperson's license in June 1994. In June 1996, he filed a renewal application in which he disclosed a pending criminal action against him for DUI on January 4, 1996. On February 26, 1997, Petitioner was convicted of misdemeanor DUI. Although he was given written notice of the requirement to notify the Commissioner within 10 days of a conviction, he failed to do so.

In February 1998, Petitioner was convicted of Disorderly Conduct Domestic Violence, a misdemeanor, for acts committed on January 20, 1998. He was placed on unsupervised probation. Again, Petitioner failed to notify the Commissioner of his conviction.

Petitioner's license expired in June 1998, and he submitted a late renewal in mid-May 1999. In his renewal application, he disclosed both of the criminal convictions. The Department notified Petitioner that it intended to deny the renewal application. Petitioner requested an

administrative hearing at which he failed to appear.

VIOLATIONS: The Administrative Law Judge found that Petitioner violated provisions of A.R.S. § 32-2153(B)(10) when he violated state laws relating to violence against another person, and that his two criminal convictions tend to reflect unfavorably upon the good character requisite for continued licensure, a violation of A.R.S. § 32-2153(B)(7). His failure to disclose the convictions within 10 days is a violation of Commissioner's Rule R4-28-301(F). The Department sought to deny renewal of the license. The Judge, however, stated that "...to achieve a more appropriate and a more meaningful disciplinary result in this matter, the Commissioner should act favorably upon the belatedly submitted renewal by granting the application but placing Petitioner's license on suspension...."

DISPOSITION: Petitioner's renewal application granted. Petitioner's license is suspended for 120 days effective the date of this order. Petitioner to pay a civil penalty in the amount of \$1,500.

**99A-069**

**Susan T. Slenk**  
**Strawberry**

DATE OF ORDER: November 16, 1999

FINDINGS OF FACT: In her April 1999 application for a real estate salesperson's license, Petitioner disclosed she was convicted of forgery, a class 4 felony, in August 1990. She was sentenced to four years probation and ordered to pay \$3,238.44 in restitution and various fees.

She also disclosed a conviction of facilitation to commit a fraudulent scheme, a class 6 felony, in January 1992. For this conviction she was sentenced to three years probation and ordered to pay \$607.71 in restitution and various fees.

On December 1, 1994, a Judge in Pima County Superior Court reinstated her civil rights, vacated both convictions and dismissed the indictments.

In May 1999, the Department notified Petitioner of its intent to deny her application. She requested an administrative hearing.

At the hearing she testified that the convictions arose out of her use of altered payroll vouchers from a hospital to buy groceries. She testified that at the time she had serious financial problems, and that her live-in boyfriend at the time proposed altering the payroll vouchers to provide for the household, justifying the activity with a false commitment to repay the money.

Ultimately, Petitioner was arrested and convicted for her part in the voucher scheme. The boyfriend eluded prosecution. As a result, Petitioner was held responsible for repaying the money she and the boyfriend gained from the

scheme. She accepted responsibility for her conduct, paid full restitution and complied fully with probation terms.

VIOLATIONS: By her actions, Petitioner violated the provisions of A.R.S. § 32-2153(B)(2), (5), (7) and (10).

DISPOSITION: The Administrative Law Judge found that Petitioner's convictions are crimes that constitute fraud, dishonest dealings and crimes of moral turpitude. He wrote, "Although Petitioner allowed herself to be drawn into circumstances that challenge a sense of responsible judgment, she accepted responsibility for her actions and remedied matters. In addition, she took affirmative steps to rebuild her life and instill in others renewed confidence that she is a person of honesty, truthfulness and good character. The record shows her efforts to be sincere, steadfast and accomplished."

DISPOSITION: Petitioner is granted a real estate salesperson's license.

### LICENSE APPLICATIONS DENIED

**99A-088**

**Kirk D. Young**  
**Payson**

DATE OF ORDER: October 19, 1999

FINDINGS OF FACT: In his May 1999 application for a real estate salesperson's license, Respondent disclosed a 1980 conviction for assault, a 1982 conviction for solicitation of an act of prostitution, two 1983 convictions for displaying fictitious license plates, and 1996 convictions for DUI and possession of drug paraphernalia.

The Department notified Respondent that if intended to deny his application. Respondent requested an administrative hearing.

Respondent contends he is rehabilitated and not of the same character as when he committed the activities underlying the convictions. He blames his actions on substance abuse, a problem he had for 27 years. Respondent claims he has been substance free since March 10, 1998 when he was shot in the head three times during a drug transaction.

VIOLATIONS: The Administrative Law Judge found that the evidence presented at the hearing does not establish that Respondent is rehabilitated, but does show Respondent has made a concerted effort towards rehabilitation. He found that Respondent failed to prove he has good character within the meaning of A.R.S. § 32-2153(B)(7). He further found that Respondent has been convicted of a crime of moral turpitude within the meaning of A.R.S. § 32-2153(B)(2).

DISPOSITION: Respondent's application for a real estate salesperson's license is denied.

*Continued on page 6*

*Continued from page 5*

## CONSENT ORDERS

### H-1983

**Rainbow Parks, Inc., a Texas corporation, and Robert W. "Budd" Carr**  
**Yavapai County**

DATE OF ORDER: September 27, 1999

FINDINGS OF FACT: Rainbow Parks, a Texas corporation doing business in Arizona, purchased approximately 130.6 acres located in Yavapai County from Lindsey, Inc. In 1992, Respondents subdivided the parcel known as Escapees at North Ranch into 436 lots and began selling them. In May 1997, the Department received information that Respondents had offered and sold subdivided lots in the parcel. In August 1997, Respondents submitted an incomplete application for a Subdivision Public Report. VIOLATIONS: The division of land into six or more lots for the purpose of sale, any one of which is less than 36 acres, constitutes creation of a subdivision within the meaning of A.R.S. § 32-2101.

Rainbow Parks and Carr offered subdivided land for sale or lease without notifying the Commissioner in writing as required by A.R.S. § 32-2181(A).

Rainbow Parks and Carr offered subdivided land for sale or lease without first obtaining a public report, and failed to disclose and furnish each prospective customer a copy thereof, in violation of A.R.S. § 32-2183.

Respondents disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, in violation of A.R.S. § 32-2153(A)(3).

Respondents did not include the disclosures in the purchase contract or lease agreements for the lots as required by A.A.C. R4-28-803(A) and (B), and A.R.S. § 32-2185.06. DISPOSITION: Upon demonstrated compliance with Arizona subdivision requirements by Respondents, the Department will issue a Public Report for Escapees at North Ranch.

Respondents shall provide each purchaser or prospective purchaser of a lot in the subdivision with a copy of the Public Report within 10 days after it is issued, and shall take a receipt therefor.

Respondents shall make rescission offers to all persons who purchased lots in the subdivision (concurrent with the Public Report. Purchasers shall have 30 days after receipt of the offer in which to accept the offer to rescind.

Respondents, jointly and severally, to pay a civil penalty in the amount of \$5,000.

### 99A-115

**Rowan J. Ellsworth**  
**Arizona State Prison, Florence**

DATE OF ORDER: September 28, 1999

FINDINGS OF FACT: On March 16, 1998, Respondent was issued an original real estate

salesperson's license which expires March 31, 2000. On March 26, 1999, Respondent's employing broker severed his license and advised the Department that Respondent was serving a sentence for a crime he had committed.

In January 1999, Respondent was found guilty in Apache County Superior Court of two counts of attempted molestation of a child, class 3 felonies, and was sentenced to 10 years in prison.

VIOLATIONS: Respondent has been convicted of a felony within the meaning of A.R.S. § 32-2153(B)(2). He has failed to demonstrate he is a person of honesty, truthfulness and good character, within the meaning of A.R.S. § 32-2153(B)(7).

DISPOSITION: Respondent's real estate salesperson's license is revoked.

### 99A-120

**Irma F. Hernandez**  
**Bullhead City**

DATE OF ORDER: September 28, 1999

FINDINGS OF FACT: Respondent was issued an original real estate salesperson's license in June 1989. At all times material to this matter, Respondent was employed by Associated Investment Properties, dba Coldwell Banker A.I.P.

Lawrence D. Wood was the designated broker for A.I.P.

On April 27, 1998, Gina Harris, designated broker of Century 21 Along the River, listed for sale a home located on Mirada Drive in Bullhead City owned by Chase Manhattan ("the seller"). The home was listed at \$65,000.

On January 10, 1999, Hernandez prepared a purchase agreement ("first purchase agreement") from Lydia R. Alonzo and Francisco J. Copalcuatzi ("the first buyer") to purchase the home. The offer was for \$52,000 with \$100 as an earnest money deposit. On January 15, 1999, Hernandez prepared a purchase agreement ("second purchase agreement") from Julita A. Gomez to purchase the home. The offer was for the same amount.

Sometime between January 10 and January 22, 1999, the first buyer met with Harris at Century 21 Along the River. Harris informed the first buyer that no written or verbal offers were received from them.

On January 22, 1999, the first buyer met with Wood at A.I.P. to inquire about his offer not being presented to the seller. When talking with the first buyer, Wood inadvertently confused him with the second buyer and told him his offer had been accepted. Later that day, Wood learned from an employee of Norwest Mortgage that Century 21 Along the River had no record of an offer by the first buyer, so Wood immediately arranged a meeting with the first buyer for January 25, 1999.

On January 25, the first buyer met with Wood and Hernandez. According to Wood, during the meeting he and Hernandez suggested

that the first buyer present the offer to the seller as a back-up offer. According to Wood, the first buyer was not satisfied with their suggestion.

Subsequently, the second buyer did not qualify for the loan and the transaction did not close escrow.

At the first buyer's request, Harris prepared a purchase contract for the first buyer to purchase the home. Escrow closed and the first buyer now owns the home.

Neither Wood nor Hernandez could locate any record of the first purchase agreement.

VIOLATIONS: Hernandez owed a fiduciary duty to her client, the first buyer, which she did not fulfill. She demonstrated negligence in performing the acts for which a license is required, in violation of A.R.S. § 32-2153(A)(22).

DISPOSITION: Hernandez' license is suspended for 14 days effective 10 days after entry of this Order. Hernandez to pay a civil penalty in the amount of \$500. The broker, Lawrence D. Wood, was absolved of any wrongdoing in this matter and was therefore excluded from this administrative action.

### 99A-139

**Rodney Gemoll**  
**Mesa**

DATE OF ORDER: October 15, 1999

FINDINGS OF FACT: In his December 1998 application for a real estate salesperson's license, Respondent failed to disclose a 1988 conviction for theft, a misdemeanor, in Iowa District Court, Black Hawk County.

VIOLATIONS: Respondent's failure to disclose the conviction constitutes procuring or attempting to procure a license by filing an application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). Respondent was convicted of the crime of theft, within the meaning of A.R.S. § 32-2153(B)(2). DISPOSITION: Respondent to pay a civil penalty in the amount of \$500. Respondent's real estate salesperson's license is suspended for 30 days to begin upon entry of this order.

### 99A-014

**Jim D. Bell**  
**Tucson**

DATE OF ORDER: October 18, 1999

FINDINGS OF FACT: Petitioner was issued an original real estate broker's license in March 1974. On May 24, 1999, he submitted an application for renewal of his license. In his renewal application, he disclosed the final disposition of a March 1997 DUI charge as being dismissed with prejudice. He also disclosed a plea agreement to a reckless driving charge.

In March 1997, he was arrested by the Pima County Sheriff's Office and charged with DUI. In October 1998, he entered a plea of guilty to, and was convicted of reckless driving, a class 2 misdemeanor. The DUI charge was dis-

missed.

**VIOLATIONS:** Petitioner failed to notify the Commissioner of his misdemeanor conviction within 10 days, a violation of A.A.C. R4-28-301(F). As a result, Petitioner disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, and the Commissioner's Rules, in violation of A.R.S. § 32-2153(A)(3).

**DISPOSITION:** Petitioner's license renewal is approved. He is to pay a civil penalty in the amount of \$250 and take six hours of approved continuing education classes in the category of Commissioner's Standards in addition to hours required for license renewal.

#### 99A-112

**Steven K. Germain**  
**Phoenix**

**DATE OF ORDER:** October 19, 1999

**FINDINGS OF FACT:** In September 1995, Respondent submitted an application for an original real estate salesperson's license in which he disclosed four DUI convictions. The Department issued the license.

In February, Respondent disclosed that on February 17, 1998, he had been convicted of interference with judicial proceedings, a misdemeanor, in Phoenix Municipal Court. He was placed on probation for two years.

In July 1998, he disclosed that on July 8, 1999, he had been convicted of misdemeanor assault in Glendale City Court. He was placed on probation for three years.

On December 7, 1998, he disclosed that on November 25, 1998 he had been convicted of criminal damage, a misdemeanor, in Phoenix Municipal Court. He was fined \$500, ordered to pay \$483 in restitution, and placed on probation for three years.

**VIOLATIONS:** Respondent has violated a state law that involves violence against another person, within the meaning of A.R.S. § 32-2153(B)(10).

**DISPOSITION:** Respondent's real estate salesperson's license is suspended for one week effective upon entry of this Order. Respondent to pay a civil penalty in the amount of \$500.

#### 99A-137

**Michael D. Lazarus**  
**Scottsdale**

**DATE OF ORDER:** October 20, 1999

**FINDINGS OF FACT:** In his July 1998 application for an original real estate salesperson's license, Respondent failed to disclose a January 1997 conviction for attempted theft, a misdemeanor. **VIOLATIONS:** His failure to disclose the conviction constitutes procuring or attempting to procure a license by filing a false or misleading application within the meaning of A.R.S. § 32-2153(B)(1).

**DISPOSITION:** Respondent to pay a civil penalty in the amount of \$1,000. Respondent's license is suspended for 30 days effective on the date of this Order

#### 99A-139

**Teresa L. Calkins**  
**Lake Havasu City**

**DATE OF ORDER:** October 25, 1999

**FINDINGS OF FACT:** In her January 1999 application for an original real estate salesperson's license, Respondent failed to disclose that she was arrested in July 1994 by Prescott City Police and charged with assault/domestic violence, and was subsequently convicted of contempt of court. The assault/domestic violence charge was dismissed. She was fined and placed on probation.

She also failed to disclose that in October 1997 she was charged with seven counts of issuing bad checks. In December 1997 she pleaded guilty to one count of issuing a bad check, was fined, and ordered to pay restitution. **VIOLATIONS:** Her failure to disclose the convictions constitutes procuring or attempting to procure a license by filing a license application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). Filing a false application shows she is not a person of honesty and truthfulness, within the meaning of A.R.S. § 32-2153(B)(7).

**DISPOSITION:** Respondent's salesperson's license is revoked.

#### 99A-151

**Troy K. Meyer**  
**Yuma**

**DATE OF ORDER:** November 3, 1999

**FINDINGS OF FACT:** In his March 1999 application for an original cemetery salesperson's license, Respondent failed to disclose three misdemeanor convictions in Yuma. In October 1991 he was convicted of assault, fined, and placed on unsupervised probation. In November 1992, he was convicted of disorderly conduct. In October 1995, he was convicted of assault and criminal damage. He was sentenced to six months unsupervised probation.

**VIOLATIONS:** His failure to disclose the convictions constitutes procuring or attempting to procure a license by filing a license application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). He violated a state law that involves violence against another person as described in A.R.S. § 32-2153(B)(10).

**DISPOSITION:** Respondent's cemetery salesperson's license is suspended for 45 days to begin upon entry of this Order. Respondent to pay a civil penalty in the amount of \$750.

#### 99A-144

**Consent Order of Thomas Guyman Crandall and Model Home Center, Inc. in the matter of Thomas Guyman Crandall and Model Home Center, Inc., dba Model Home Center, and in the matter of the real estate salesperson's license of Darlene Dewey.**  
**Chandler**

**DATE OF ORDER:** November 3, 1999

**FINDINGS OF FACT:** Crandall was issued a real estate broker's license in November 1996. Model Home Center was issued a real estate broker's license in October 1988. At all times material to this matter, Crandall was the designated broker for Model Home Center. Dewey was licensed as a real estate salesperson employed by Realty Experts, Inc.

On August 12, 1997, Crandall listed for sale a home owned by Craig Rosenbaum in Chandler. The listing identified the home as a "lease-purchase" possibility at a price of \$126,900.

On September 16, 1997, Dewey prepared a purchase/lease agreement from Patricia and Michael O'Toole to purchase the home. The lease was for one year from September 21, 1997 to September 21, 1998. The offer was for \$126,900 with \$3,699 down as a non-refundable earnest money deposit, an additional \$1,311 earnest money due at move-in, and \$5,000 more due January 30, 1998, for a total of \$10,000 earnest money. Dewey gave the agreement to Crandall to present to the seller who accepted the offer. The transaction was not contingent on buyers obtaining financing and escrow was scheduled to close September 21, 1998.

On September 25, 1997, while at a title company with Crandall, Dewey, and the buyers to open escrow, the seller asked Dewey about the buyer's ability to obtain a mortgage and their credit worthiness. According to the seller, "Dewey told me and Crandall that they (the buyers) were all right and they had already spoken with a mortgage company who said they would give the buyers a mortgage within six months (and) all that they needed to show was a good payment history."

Despite Crandall and the seller being advised by Dewey that the buyers' ability to get a loan was questionable, Crandall did not suggest that the seller make the sale contingent on a satisfactory credit report, or suggest that a credit report be required from the buyers. According to the seller, Crandall encouraged him to complete the transaction because the buyer had agreed to pay a non-refundable earnest money deposit and would have pride of ownership. Crandall advised the seller that running a credit check on the buyer would not accomplish much because the transaction was not closing until a later date and anything could change before that date.

On September 21, 1997, buyers took possession of the home. Subsequently, they did not pay rent as agreed. After several unsuccessful attempts to collect rent from the buyers, the seller hired an attorney to evict the buyers. The sale never closed escrow. According to the seller, there was substantial damage to the home and he incurred attorney fees and costs for repairs to the home.

**VIOLATIONS:** Crandall and Model Home Center were responsible to deal fairly with all parties to

*Continued on page 8*

the transaction and to act in their client's best interests. They did not take steps to protect and promote the seller's interests. Crandall and Model Home Center did not act in the best interests of the seller, and violated their fiduciary duty to the seller within the meaning of A.A.C. R4-28-1101(A).

Crandall and Model Home Center did not ensure that the seller was given information material to the transaction, as described herein, which likely would have affected the seller's decision to accept the buyers' offer, in violation of A.A.C. R4-28-1101(B).

Crandall and Model Home Center have violated provisions of Arizona Revised Statutes, Title 32, Chapter 20, and the Commissioner's Rules, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Crandall's real estate broker's license is suspended for 10 days effective 10 days after entry of this Consent Order. Crandall and Model Home Center, jointly and severally, to pay a civil penalty in the amount of \$500.

#### 99A-125

**Lon D. Durby**  
**Scottsdale**

DATE OF ORDER: November 3, 1999

FINDINGS OF FACT: Respondent was issued an original real estate broker's license in August 1976. In August 1999, he submitted an application for license renewal. On September 8, 1999, the Department requested additional information from Respondent concerning his qualifications for continued licensure. He submitted the information on October 19, 1999.

On May 27, 1998, a complaint was filed in Scottsdale Justice Court charging Respondent with aggravated assault, a class 6 felony. The matter was transferred to Maricopa County Superior Court, and an information was filed against Respondent alleging the same offense.

On June 15, 1998, after reporting the pending charge, Respondent acknowledged his obligation to report any resulting conviction in writing to the Department within 10 days.

On June 30, 1998, Respondent pleaded no contest to an amended charge of assault, a class 1 misdemeanor. He was found guilty and convicted of assault.

On August 11, 1999, in connection with his renewal application, Respondent disclosed the conviction.

VIOLATIONS: Respondent failed to report the conviction within 10 days as required by A.A.C. R4-28-301(F), in violation of A.R.S. § 32-2153(A)(3). Respondent has violated a state law which relates to violence against another person, within the meaning of A.R.S. § 32-2153(B)(10).

DISPOSITION: Respondent to pay a civil penalty in the amount of \$500 and to attend six hours of continuing education in the category of Commissioner's Standards in addition to hours required for license renewal. Respondent's real

estate broker's license is renewed.

#### 99A-142

**Michael M. Thornton**  
**Mesa**

DATE OF ORDER: November 9, 1999

FINDINGS OF FACT: In his November 1998 application for an original estate salesperson's license, Respondent failed to disclose several prior misdemeanor convictions in Flathead County Justice Court in Kalispell, Montana for which he was fined and ordered to pay restitution.

In December 1992 he pleaded guilty to assault. In November 1992 he pleaded guilty to DUI and attempting to elude a peace officer. In connection with the first charge, he was sentenced to 60 days in jail (59 days suspended) and fined. In connection with the second charge, he was sentenced to six months in jail (all but 10 days suspended). In March 1993 he was convicted of DUI and driving on a revoked license. He was fined and received a six-month suspension of his driver's license and served two days in jail.

VIOLATIONS: His failure to disclose the convictions constitutes procuring or attempting to procure a license by filing a license application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). He was convicted of a crime of moral turpitude or other like offense, within the meaning of A.R.S. § 32-2153(B)(2). His failure to disclose the convictions tends to show he is not a person of honesty, truthfulness or good character within the meaning of A.R.S. § 32-2153(B)(7).

DISPOSITION: Respondent's real estate salesperson's license is suspended for 90 days to begin 10 days after entry of this Order. Respondent to pay a civil penalty of \$1,000.

#### 99A135

**Faye Fitzpatrick**  
**Scottsdale**

DATE OF ORDER: November 9, 1999

FINDINGS OF FACT: In her application for an original real estate salesperson's license, Respondent failed to disclose that she had been convicted of disorderly conduct in September 1992.

VIOLATIONS: Respondent's failure to disclose the convictions constitutes procuring or attempting to procure a license by filing a license application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). She was convicted of a crime of moral turpitude or other like offense, within the meaning of A.R.S. § 32-2153(B)(2).

DISPOSITION: Respondent's real estate salesperson's license is suspended for 90 days to begin upon entry of this Order. Respondent to pay a civil penalty in the amount of \$500.

#### 98A-H1992

**Kim Webber**  
**Tucson**

DATE OF ORDER: November 10, 1999

FINDINGS OF FACT: In December 1998, the Commissioner entered an Order Summarily Prohibiting Offer to Sell, Lease or Transfer, with respect to lands situated in the west half of the northeast quarter and the north half of the southeast quarter of Section 31, Township 14 South, Range 16 East, in Pima County, hereafter collectively referred to as "Section 31." The order prohibited individuals and/or entities identified as Kim Webber, Mark Capley, Nirvana LLC, Katherine Griffiths, John Heun, Terry Kirchoffner and Robert Bersbach from selling or conveying interests in any lots located in Section 31.

Webber, Capley, Griffiths, Heun, Kirchoffner and Bersbach reside in Arizona and each have sold or offered to sell lands in Section 31.

Nirvana is an Arizona LLC doing business in Arizona. It comprises two members, Capley and David Forshey. Management of Nirvana is reserved to Capley.

Lawyers Title of Arizona, Inc., was the trustee for Trust No. 7624 and opened escrow accounts and acted as escrow agent for subsequent sale of lots in Section 31.

Prior to February 5, 1998, Trust No. 7642 owned the west half of the northeast quarter of Section 31, otherwise known as the "Escalante Lots." Prior to July 2, 1998, Trust No. 7642 owned the north half of the southeast quarter of Section 31, otherwise known as "Spanish Ridge." Escalante Lots consists of 59.54 acres; Spanish Ridge consists of approximately 80 acres. Escalante Lots and Spanish Ridge are contiguous.

In August 1997, Webber purchased Escalante Lots and Spanish Ridge from Trust No. 7642. Through a series of complicated transactions, Webber and others acted in concert to avoid the provisions of Arizona subdivision statutes. The conduct of Webber and others facilitated division of the 59-acre Escalante Lots parcel into lots from 3.34 acres to 10 acres, and the 80-acre Spanish Ridge parcel into lots from 3.34 acres to 20 acres in area. Escalante Lots now consists of 12 lots, and Spanish Ridge consists of 13 lots.

VIOLATIONS: The division of Escalante Lots and Spanish Ridge into six or more lots for the purpose of sale created a subdivision within the meaning of A.R.S. § 32-2101(54). Webber failed to notify the Commissioner in writing of his intention to offer for sale or sell the parcels, and failed to obtain the Commissioner's prior approval, as required by A.R.S. § 32-2183(F).

Pursuant to A.R.S. § 32-2181.01(A), Webber failed to apply for an exemption from the requirements of A.R.S. § 32-2181(A). Webber acted independently and in concert with others to attempt to avoid the provisions of Arizona's subdivision laws by dividing a parcel of land or selling lots by using a series of owners or conveyances or by any other method which results in division of land into a subdivision, in violation of A.R.S. §§ 32-2181(D) and 32-2183(F).

Webber offered for sale and sold lots in a



subdivision without a public report and failed to disclose and furnish each prospective customer with a copy thereof, in violation of A.R.S. § 32-2183(F).

**DISPOSITION:** The Order Summarily Prohibiting Offer to Sell, Lease or Transfer, dated December 28, 1998, is affirmed. Webber shall be prohibited from selling or conveying lots, or any fractional interests thereof, located in Escalante Lots or Spanish Ridge, until he demonstrates compliance with Pima County subdivision requirements under the conditions set forth below. In the event Webber sells any lot or lots located therein upon demonstrating compliance with those conditions, Webber shall provide all prospective purchasers a copy of this Consent Order.

Webber to pay a civil penalty in the amount of \$1,000. The civil penalty shall be suspended on the condition that Webber complies with the terms of this Consent Order.

Webber shall offer rescission to each and all purchasers of a lot or lots from Webber in Escalante Lots or Spanish Ridge.

Webber is financially responsible for bringing Escalante Lots and Spanish Ridge into compliance with Pima County subdivision standards, including road construction, water and utility requirements, and obtaining plat approval and recordation. In the event the Pima County Board of Supervisors grants a plat waiver to Webber with respect to Escalante Lots and Spanish Ridge, or either of them, Webber shall be bound and will abide by the road construction and other requirements imposed by Pima County as a condition prerequisite to the granting of the waiver.

The Order referenced above shall not be construed to prohibit Webber's assignment of a promissory note secured by the deed of trust recorded September 3, 1998. As set forth in a separate written agreement between Webber and Pima County, Webber has posted a bond as an assurance pursuant to A.R.S. § 11-806.01(G) and applicable Pima County regulations for improvements to be made in Escalante Lots and/or Spanish Ridge.

Webber shall obtain and submit to the Department's Compliance Officer, within one year of the date of this order, a written statement by the Pima County Planning and Zoning Director that Escalante Lots and Spanish Ridge are in compliance with applicable county subdivision statutes, regulations and ordinances, or plat waiver requirements as applicable.

Webber shall apply for and obtain a certificate of assured water supply from the Arizona Department of Water Resources, in accordance with the requirements of A.R.S. § 45-576, with respect to all lots located in Escalante Lots and Spanish Ridge. Webber shall file an application no later than 60 days from the date of this Order, and obtain certification no later than one year from the date of this Order.

In the event of Webber's failure to comply

with the provisions of this Order, including any failure to comply with Pima County subdivision standards, the Department may bring an action in a court or tribunal of proper jurisdiction and seek such order or orders as are necessary to enforce this Order and compel compliance with the subdivision laws. The Findings of Fact and Conclusions of Law herein shall be binding and have the force of res judicata and/or collateral estoppel.

In the event a court or tribunal declares any of the foregoing provisions of this Order section to be unenforceable, the Department retains the ability to seek such order or orders as are necessary to protect the public and ensure compliance with applicable subdivision statutes and regulations, based upon the Findings of Fact and Conclusions of Law herein. The purpose of this Consent Order is to conclusively establish that Webber subdivided Escalante Lots and Spanish Ridge into a subdivision without complying with the requirements of A.R.S. § 32-2181 et seq., and A.R.S. § 11-806.01 and the Pima County Code relating to subdivisions.

Future sales by Webber of any lot or lots within Escalante Lots and Spanish Ridge shall be subject to the public report requirements of A.R.S. § 32-2181 et seq., as applicable. Specifically, should Webber in the future sell or offer for sale any lots or fractional interests within Escalante Lots and/or Spanish Ridge, Webber shall apply for and obtain a public report and otherwise comply with the provisions of A.R.S. § 32-2181 et seq. before making those offers or sales.

This Consent Order shall not operate to extinguish or compromise any enforcement actions brought or to be brought against individuals or entities other than Webber. Further, this Consent Order does not modify or alter the Commissioner's Order Summarily Prohibiting Offer to Sell, Lease or Transfer, Case No. 98A-H1992-REL, dated December 28, 1998, with respect to any individuals or entities other than Webber named therein.

#### **99A-136 Dorothy Marie DiFrancesco Peoria**

**DATE OF ORDER:** November 17, 1999

**FINDINGS OF FACT:** In her February 1999 application for an original real estate salesperson's license, Respondent failed to disclose that in February 1990 she had been charged with one felony count and one misdemeanor count of bank embezzlement. In March 1990 she entered into a plea agreement in which she pleaded guilty to one misdemeanor count of bank embezzlement, was convicted, and ordered to pay restitution and perform 50 hours of community service. She was placed on supervised probation for five years.

**VIOLATIONS:** Respondent's failure to disclose the convictions constitutes procuring or attempting to procure a license by filing a license

application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). Respondent was convicted of the crime of forgery, theft, extortion, conspiracy to defraud, a crime of moral turpitude or other like offense within the meaning of A.R.S. § 32-2153(B)(2). Respondent is guilty of fraud or dishonest dealings as described in A.R.S. § 32-2153(B)(5). Respondent violated a federal law that involves forgery, theft, extortion, fraud, substantial misrepresentation or dishonest dealings as described in A.R.S. § 32-2153(B)(10).

**DISPOSITION:** Respondent's real estate salesperson's license is suspended for one year beginning with entry of this Order. Respondent to pay a civil penalty in the amount of \$1,000. Prior to any reinstatement or renewal of her license, Respondent shall post a surety bond pursuant to A.R.S. § 32-2193.02 in the amount of not less than \$40,000 and a period of not less than five years.

#### **99A-150 Toltec Estates West, a subdivision, and Thomas L. Fink, dba Tom Fink Realty, and Adele Fink.**

**Eloy**

**DATE OF ORDER:** November 18, 1999

**FINDINGS OF FACT:** Fink was issued an Arizona real estate broker's license in 1994. At all times material to this matter, he was licensed as a self-employed broker dba Tom Fink Realty. His wife, Adele, does not hold a real estate license in Arizona.

Toltec Estates West is a subdivision located in Pinal County. The plat map for Toltec Estates West was approved by the Pinal County Board of Supervisors in September 1963.

Respondents acquired and sold more than six lots in Toltec Estates West without obtaining a Department of Real Estate Public Report.

In explanation and mitigation, Respondents state they were unaware that the acquisition and sale of six or more lots in a subdivision required a public report. When they became aware of this fact, they immediately ceased offering the lots for sale and offered rescission and refunds to all but two purchasers whom they could not locate.

**VIOLATIONS:** Respondents sold or offered for sale subdivided land without first obtaining a public report from the Commissioner, and failed to disclose and furnish each prospective customer with a copy of the report in violation of A.R.S. § 32-2183. Respondent Fink disregarded or violated provisions of Arizona Revised Statutes, Title 32, Chapter 20 in violation of A.R.S. § 32-2153(A)(3).

**DISPOSITION:** Respondents shall comply with the subdivision requirements of Pinal County and the State of Arizona and obtain a public report, or exemption from the public report requirements, before offering lots in Toltec Estates West for sale.

*Continued on page 10*

Respondents shall provide each purchaser or prospective purchaser of a lot at Toltec Estates West with a copy of the public report within 10 days of its issuance.

Respondents shall offer rescission to each of the purchasers at Toltec Estates West who were not already offered rescission. Respondents, jointly and severally, to pay a civil penalty in the amount of \$500.

Thomas Fink shall attend three hours of continuing education in the category of subdivision law in addition to hours required for license renewal.

## Legislation

*Continued from page 2*

EACH, FOR FIVE YEARS, BEEN PRIMARILY ENGAGED IN RESIDENTIAL REAL ESTATE BROKERAGE.

*Adds membership requirements for two additional members to the advisory board.*

32-2104(E) The board shall provide the commissioner with such recommendations as it deems necessary and beneficial to the best interests of the public. The board shall also provide recommendations on specific questions or proposals AS THE BOARD DEEMS NECESSARY OR as requested by the commissioner. *Clarifies the advisory boards' duties on recommendations.*

32-2104(G) NOT MORE THAN FIVE MEMBERS FROM ANY ONE COUNTY SHALL SERVE CONCURRENTLY. *Restricts how many advisory board members may be from any county.*

32-2108.01(A) Before receiving and holding a license issued pursuant to this chapter, each license applicant shall submit a full set of fingerprints and the fees required in section 41-1750 to enable the state real estate department to conduct a criminal background RECORD investigation to determine the suitability for licensure of the applicant. The state real estate department shall submit completed applicant fingerprint cards and the fees to the department of public safety. The department of public safety shall conduct applicant criminal history records checks pursuant to section 41-1750, Public Law 92-544 and any other applicable federal laws. The department of public safety, on behalf of the state real estate depart-

ment, may exchange license applicant fingerprint card information with the federal bureau of investigation for national criminal history records checks.

*Language clean-up.*

32-2108.01(D) The department may issue a license to an original license applicant before receiving the results of a criminal history records check pursuant to this section if there is no evidence or reasonable suspicion that the applicant has a criminal history background. ~~However, THE DEPARTMENT MAY ISSUE A LICENSE TO AN APPLICANT WHO IS UNABLE TO SUBMIT A CLASSIFIABLE SET OF FINGERPRINTS IF THE APPLICANT MAKES A WRITTEN STATEMENT, UNDER OATH, THAT THE APPLICANT HAS NOT WITHHELD EVIDENCE OF HAVING BEEN CONVICTED OF OR PLED GUILTY OR NO CONTEST TO ANY FELONY OR MISDEMEANOR.~~ The department shall suspend the license if a fingerprint card is returned as unreadable and an applicant who was issued a license fails to submit a new fingerprint card within ten days after being notified by the department. *Authorizes the department to issue a license to an applicant who is unable to submit a classifiable set of fingerprints if the applicant provides a written statement under oath that the applicant has fully disclosed every criminal conviction.*

32-2124(J) An applicant for a real estate salesperson's or broker's license who currently holds at least an equivalent license in another state may be exempt from taking the national portion of the real estate examination if the applicant can demonstrate having previously passed a national examination, WITHIN THE PRECEDING FIVE YEARS, that is satisfactorily similar to the one administered by the department.

*Inserts a time limit for applicants to be exempted from taking the national portion of the real estate examination of five years.*

32-2125(B) An employing broker may engage the services of salespersons and associate brokers who act through and on behalf of professional corporations or professional limited liability companies that are licensed

by the department. Any person so engaged shall be separately licensed. The department shall issue to or renew a license under this subsection only for a professional corporation or a professional limited liability corporation whose shareholders, members or managers hold active real estate licenses ISSUED PURSUANT TO THIS ARTICLE. A corporation licensed under this subsection shall meet the requirements of title 10, chapter 20. A limited liability company licensed under this subsection shall meet the requirements of title 29, chapter 4, article 11.

*Clarifies that all licenses are subject to the provisions of this paragraph.*

32-2125(H) WHEN THE REGISTRATION OR AUTHORITY TO CONDUCT BUSINESS IN THIS STATE OF AN EMPLOYING BROKER LICENSED UNDER THIS SECTION EXPIRES OR IS SUSPENDED OR REVOKED OR, IF THE BROKER IS A CORPORATION OR LIMITED LIABILITY COMPANY, WHEN THE ARTICLES OF INCORPORATION OR ORGANIZATION HAVE EXPIRED OR BEEN REVOKED, THE EMPLOYING BROKER'S LICENSE MAY BE CANCELED.

*Clarifies that when the registration or authority to conduct business is revoked, suspended, or expires, the employing broker's license may be canceled.*

32-2151.02 Real estate ~~listing and~~ employment agreements

32-2151.02(A) All real estate ~~sale or rental listing~~ EMPLOYMENT agreements, INCLUDING LISTING AGREEMENTS, ~~and all buyer's broker employment agreements~~ shall:

1. Be written in clear and unambiguous language.
2. Fully set forth all material terms, INCLUDING THE TERMS OF BROKER COMPENSATION.
3. Have a definite duration or expiration date, showing dates of inception and expiration.
4. Be signed by all parties to the agreement.

32-2151.02(B) An employing broker shall not assign a ~~listing~~ REAL ESTATE EMPLOYMENT agreement to another broker without the express written consent of all parties to the

agreement at the time of the assignment.

32-2151.02(C) A licensee shall not procure, or attempt to procure, a ~~listing~~ REAL ESTATE EMPLOYMENT agreement ~~for property~~ FROM A PARTY WHO ~~that~~ is already subject to an existing exclusive ~~listing~~ REAL ESTATE EMPLOYMENT agreement unless the licensee has ~~notified the seller or lessor~~ RECEIVED WRITTEN ACKNOWLEDGEMENT FROM THE PARTY that the execution of additional ~~listings~~ REAL ESTATE EMPLOYMENT AGREEMENTS could expose the ~~seller or lessor~~ PARTY to liability for substantial additional commissions. ~~And the seller or lessor signs the notification acknowledging its receipt.~~ Nothing in this subsection shall be construed to abrogate any civil liability of a licensee arising out of this conduct.

32-2151.02(D) A REAL ESTATE EMPLOYMENT AGREEMENT IS NOT REQUIRED FOR A LICENSEE TO REPRESENT A PARTY IN A TRANSACTION.

*Changes listing agreement to real estate employment agreement; requires the terms of broker compensation to be set forth in the real estate employment agreement; and language cleanup. Clarifies that a licensee may represent a party in a transaction without the client executing an employment agreement.* 32-2153(A) The commissioner may suspend or revoke a license, deny the issuance of a license, ISSUE A PROVISIONAL LICENSE or deny the renewal or the right of renewal of a license issued under the provisions of this chapter if it appears that the holder or applicant, within five years immediately preceding, in the performance of or attempt to perform any acts authorized by the license or by this chapter, has:

32-2153(B) The commissioner may suspend or revoke a license, deny the issuance of a license, ISSUE A PROVISIONAL LICENSE or deny the renewal or the right of renewal of a license issued under the provisions of this chapter when it appears that the holder or applicant therefor has:  
*Authorizes issuance of a provisional license.*

32-2157(A) Except as provided in subsection B of this section, before suspending, revoking or denying the renewal or the right of renewal of any license, or issuing any order prohibiting the sale or lease of property or the sale of cemetery lots or membership camping contracts as provided by this chapter, the commissioner shall present the licensee, owner, operator, agent or ~~subdivider~~ DEVELOPER with written notice of the charges filed against the person, or reasons for prohibiting the sale or lease, and shall afford the person an opportunity for a hearing pursuant to title 41, chapter 6, article 10. WITHIN TWENTY DAYS AFTER THE RESPONDENT RECEIVES A NOTICE OF HEARING AND COMPLAINT, THE RESPONDENT SHALL APPEAR AND FILE A VERIFIED ANSWER TO THE COMPLAINT.

*Requires that within 20 days of receiving the notice of hearing, the respondent shall appear and file a response to the complaint.*

32-2157(B) If the commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in the commissioner's order, summary suspension of a license or sales may be ordered. Grounds for issuance of an order of summary suspension include the violation of any of the provisions of section 32-2153, subsection B and the termination of a license pursuant to section 32-2188, subsection H. A licensee, owner, operator, agent or ~~subdivider~~ DEVELOPER may request a hearing pursuant to title 41, chapter 6, article 10. A summary suspension shall be deemed to be final if a request for a hearing is not received within thirty days as provided by section 41-1092.03.

*Language cleanup.*

32-2181.02(B)(5)(c) BEFORE SELLING AN IMPROVED LOT PURSUANT TO THIS EXEMPTION, THE SUBDIVIDER PROVIDES WRITTEN NOTICE TO THE DEPARTMENT OF THE SUBDIVIDER'S INTENT TO SELL THE LOT.

*Adds a requirement that the subdivider provides written notice to the department to qualify for the exemption.*

32-2184(A) It is unlawful for any subdivider, after submitting to the commissioner the plan under which a subdivision is to be offered for sale or lease, and securing ~~his~~ THE COMMISSIONER'S approval, to change the plan materially or to continue to offer lots or parcels ~~within the subdivision~~ AFFECTED BY THE CHANGE for sale or lease after a change has occurred that materially affects the plan without first notifying the commissioner in writing of the intended change. Material changes covered by this section shall be prescribed in the rules of the commissioner. Upon receipt of any notice of a material change, the commissioner may require the amendment of the public report and, if ~~he~~ THE COMMISSIONER determines such action to be necessary for the protection of purchasers, MAY suspend ~~his~~ approval of sale or lease pending amendment of the public report in accordance with section 32-2157.

*Revision clarifies that it is unlawful to continue offering for sale those lots affected by a change (instead of all lots in a subdivision) without notifying the commissioner. Also gives the commissioner discretion to suspend sales only if deemed necessary.*

32-2185.01(E) If a buyer of an unimproved lot or parcel has not inspected the lot or parcel prior to the execution of the purchase agreement, the buyer shall have a six-month period after the execution of the purchase agreement to inspect the lot or parcel and at the time of the inspection have the right to unilaterally rescind the purchase agreement. At the time of inspection the buyer must sign ~~an affidavit stating~~ A WRITTEN STATEMENT that ~~he~~ THE BUYER has inspected the lot, and at the request of the commissioner, ~~such affidavit~~ THE DEVELOPER may be required to ~~be filed~~ FILE THIS STATEMENT with the department.  
*Language cleanup. Removes requirement that buyer's statement must be notarized.*

32-2194.04 A. In all agreements and contracts for the sale of cemetery plots from a cemetery, a broker or agent shall clearly and conspicuously disclose the following information:

1. The nature of the document, in-

*Continued on page 12*

- cluding grave site designation.
2. The nature of the cemetery, whether endowed or not under the provisions of this article.
  3. That the cemetery operator has received a certificate of authority from the department pursuant to section 32-2194.03 and that ~~these records are~~ THE CEMETERY OPERATOR'S APPLICATION FOR THE CERTIFICATE OF AUTHORITY IS available for examination at the department at the request of the purchaser.
  4. A provision that all cemetery improvements for the area developed as defined in the application shall be completed by the date indicated in the application.
  5. Whether the purchaser is subject to a fee for the following known services or goods associated with future plot use:
    - (a) Opening or closing interment.
    - (b) A marker, with or without a setting.
 A vault liner purchased with the grave site.
  6. THAT THE CONTRACT COVERS ONLY THE DESCRIBED PURCHASE OF THE CEMETERY PROPERTY AND INTERMENT RIGHTS AND THE DESIGNATED GOODS AND SERVICES ASSOCIATED WITH INTERMENT RIGHTS.
  7. Whether ~~a marker or vault~~ GOODS AND SERVICES THAT ARE OFFERED BY THE CEMETERY OPERATOR may be purchased separately from another vendor.
  8. THE POLICY OF THE CEMETERY REGARDING CANCELLATION OF CONTRACT, INCLUDING WHETHER THE CEMETERY ISSUES A REFUND UNDER A CANCELED CONTRACT.

An agreement or contract which fails to make the disclosures required in subsection A of this section is unenforceable against the purchaser.

*Clarifies the contract requirements for cemetery goods and services, including the policy regarding contract cancellations and associated refunds.*

32-2195.02 The commissioner shall examine any unsubdivided land offered for sale or lease pursuant to this

article, and shall make public his findings. The total cost of travel and subsistence expenses incurred by the department in the examination, in addition to the initial filing fee provided for in this section, shall be borne by the owner of the unsubdivided land or his agent, or the subdivider of the project, on the basis of actual cost to the department. An initial filing fee of five hundred dollars shall accompany the written notification required in sections 32-2195. ~~and 32-2195.10.~~ *Reduces the filing fee for an unsubdivided land public report. See §32-2195.10(B).*

32-2195.10 A. It is unlawful for an owner, agent or subdivider DEVELOPER, after submitting to the commissioner a plan under which unsubdivided lands are to be offered for sale or lease and securing his THE COMMISSIONER'S approval, to change the plan materially OR TO CONTINUE TO OFFER LOTS OR PARCELS AFFECTED BY THE CHANGE FOR SALE AFTER A CHANGE HAS OCCURRED THAT MATERIALLY AFFECTS THE PLAN without first notifying the commissioner in writing of the ~~intended~~ change. THE COMMISSIONER MAY PRESCRIBE IN RULES CIRCUMSTANCES THAT CONSTITUTE A MATERIAL CHANGE UNDER THIS SECTION. On receipt of a notice of a change of plan, the commissioner MAY REQUIRE AMENDMENT OF THE PUBLIC REPORT AND, if he THE COMMISSIONER determines such action to be necessary for the protection of purchasers, may suspend his approval of the sale or lease pending amendment of the public report IN ACCORDANCE WITH SECTION 32-2157.

AN OWNER, AGENT OR DEVELOPER SHALL SUBMIT A FILING FEE THAT IS EQUAL TO ONE-HALF OF THE AMOUNT THAT WAS CHARGED FOR THE FILING OF THE INITIAL PUBLIC REPORT PURSUANT TO SECTION 32-2195.02, BUT NOT LESS THAN TWO HUNDRED FIFTY DOLLARS, WITH EACH APPLICATION FOR AN AMENDED PUBLIC REPORT. IF INSPECTION OF A DEVELOPMENT SITE IS NECESSARY, THE DEPARTMENT SHALL ASSESS AN INSPECTION FEE PURSUANT TO SECTION 32-2195.02.

*Clarifies that it is unlawful to materially change the approved plan involved in the sale or lease of unsubdivided lands after the commissioner's initial approval or to continue to offer lots or parcels affected by the change for sale without first notifying the commissioner. Reduces the amount charged for filing an amendment to the public report which is equal to one-half the amount that was charged for filing the initial report, but not less than \$250.*

32-2197.03 A. ~~The developer of a time-share project which is the subject of an outstanding public report shall immediately report to the department relevant details concerning any material change in the project itself or in the program for marketing the time-share interests. IT IS UNLAWFUL FOR ANY DEVELOPER, AFTER SUBMITTING TO THE COMMISSIONER THE PLAN UNDER WHICH TIME-SHARE INTERVALS ARE TO BE OFFERED FOR SALE AND SECURING THE COMMISSIONER'S APPROVAL, TO CHANGE THE PLAN MATERIALLY OR TO CONTINUE TO OFFER TIME-SHARE INTERVALS FOR SALE AFTER A CHANGE HAS OCCURRED THAT MATERIALLY AFFECTS THE PLAN WITHOUT FIRST NOTIFYING THE COMMISSIONER IN WRITING OF THE CHANGE. THE COMMISSIONER MAY PRESCRIBE IN RULES CIRCUMSTANCES THAT CONSTITUTE A MATERIAL CHANGE UNDER THIS SECTION. IN ADDITION TO ANY CIRCUMSTANCES SET FORTH IN THE COMMISSIONER'S RULES, a material change in the project DEVELOPMENT or in the offering includes:~~

1. The sale, the conveyance or the granting of an option to another to acquire twelve or more time-share estates or time-share uses in the project.
2. Deletion of a dwelling unit from the project or addition of a dwelling unit not authorized under an existing time-share public report for the project.
3. Change in the name or form of organization of the developer such as incorporation, dissolution of a corporation, or a change in the corporate or fictitious business name.

4. Change in the instruments used in the marketing or the conveying of time-share interests previously approved by the department with regard to blanket encumbrances or the creation by the developer of an encumbrance affecting more than one time-share interest in the project if one or more of such interests ~~is~~ ARE subject to a public report issued by the commissioner.
5. An amendment to any provision of the recorded time-share declaration.
6. A change in any aspect of the offering for the project which will cause information in the current public report for the project to be incorrect or misleading.

On receipt of a ~~written~~ ANY notice of a material change, the commissioner MAY REQUIRE AMENDMENT OF THE PUBLIC REPORT AND, if ~~he~~ THE COMMISSIONER determines such action to be necessary for the protection of purchasers, may suspend ~~his~~ approval of the sale or lease pending amendment of the public report IN ACCORDANCE WITH SECTION 32-2157.

A FILING FEE OF ONE-HALF OF THE AMOUNT THAT WAS CHARGED FOR THE INITIAL PUBLIC REPORT PURSUANT TO SECTION 32-2197.05, BUT NO LESS THAN FIVE HUNDRED DOLLARS, SHALL ACCOMPANY AN APPLICATION FOR AN AMENDED PUBLIC REPORT. IF INSPECTION OF A DEVELOPMENT SITE IS NECESSARY, THE DEPARTMENT SHALL ASSESS AN INSPECTION FEE PURSUANT TO SECTION 32-2197.05.

*Clarifies the requirements for notifying the commissioner of a material change to a time share project plan. Authorizes the commissioner to prescribe rules describing what constitute a material change. Adds filing fee requirement for amended applications for timeshare public reports.*

**32-2198.01** A. An application for a membership camping public report shall contain the following documents and information:

1. The name and address of the membership camping operator.
2. A copy of the articles of incorporation, partnership agreement or joint venture agreement and the camping club association bylaws as contemplated or ~~currently~~ in effect ON THE DATE OF APPLICATION.
3. A list of all officers and directors or persons occupying a similar status of the membership camping operator including their names, addresses and occupations during the ~~last~~ five years IMMEDIATELY PRECEDING THE DATE OF APPLICATION.
4. A list of material affiliates of the membership camping operator, including the names and addresses of partners, officers, directors and persons with a direct or indirect interest of ten per cent or more in the membership camping operator.
5. A list of all owners of over ten per cent of the voting stock of the membership camping operator, except that this list is not required if the membership camping operator is a reporting company under the securities and exchange act of 1934.
6. Copies of forms of all advertisements intended to be used in connection with the offer or sale of membership camping contracts within this state.
7. A copy of each type of membership camping contract to be sold, a description of the purchase price of each type and, if the price varies, the reason for the variance.
8. A copy of any conditional use permit or any other major use permits indicating approval of the project by this state or a political subdivision of this state for each of the membership camping operator's camping projects located in this state. If the membership camping operator has no projects in this state, the same documents shall be provided for all out of state projects for which membership contracts are to be sold or offered for sale in this state.
9. The financial statements of the membership camping operator prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.
10. A statement of the total number of membership camping contracts intended to be sold in this state and the method used to determine this number including a statement of commitment that this total number will not be exceeded unless it is disclosed by an amendment to the registration.
11. If membership camping contracts are sold with different privileges or durations, a list of each type of membership camping contract and the approximate number of each type to be sold.
12. A copy of the agreement, if any, between the operator and any person owning, controlling or managing the campground.
13. The names of any other states or foreign countries in which an application for registration of the membership camping operator or the membership camping contract or any similar document has been filed.
14. Complete information concerning any adverse order, judgment or decree involving forgery, theft, extortion, conspiracy to defraud, a crime of moral turpitude or any other like conduct which has been entered by a court or administrative agency in connection with a campground or other business operated by the applicant or in which the applicant has or had an interest at the time of the acts which led to the order, judgment or decree.
15. A current title report which is signed and dated not more than thirty days before receipt by the commissioner and which provides a true statement of the condition of the title to the campground property, including all encumbrances on the property.
16. A statement on the provisions that have been made for permanent access and provisions, if any, for health department approved sewage and solid waste collection and disposal and public utilities, if any, in the proposed campground, including water, electricity, gas and telephone facilities.
17. A statement of the provisions, if any, limiting the use or occupancy of the campground, together with copies of any restrictive covenants affecting all or part of the campground.
18. A true statement of the approximate amount of indebtedness which is a lien on the camp-

*Continued on page 14*



- ground or any part of the campground and which was incurred to pay for the construction of any on-site or off-site improvement or any community or recreational facility.
19. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district within the boundaries of which the campground or any part of the campground is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to the campground, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax on the campground or any part of the campground.
  20. A true statement as to the approximate amount, if any, of annual taxes, special assessments or fees to be paid by the membership camping contract owner for the proposed annual maintenance of common facilities in the campground.
  21. A true statement of assurances for the installation of improvements, such as roads and utilities, and approval by the political subdivision having authority.
  22. A true statement of provisions made for financing any community, recreational or other facilities to be included in the offering or represented as being in the offering. The statement shall include a trust agreement or other evidence of assurances for delivery of such facilities and a statement of the provisions, if any, for the continued maintenance of the facilities.
  23. A true statement of the nature of any improvements to be installed or represented to be installed, the estimated schedule for completion and the estimated costs related to these improvements which will be borne by membership camping contract owners in the campground.
  24. A true statement of the membership camping operator's experience in the membership camping business, including the number of years the operator has been in the membership camping business.
  25. A true statement of the nature of the purchaser's right or license to use the membership camping operator's property or facilities.
  26. The location of each of the membership camping operator's parks and a brief description for each park of the significant facilities then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities that are or will be available to nonpurchasers or nonmembers. As used in this paragraph "significant facilities" includes campsites, swimming pools, tennis courts, recreation buildings, rest rooms and show-ers, laundry rooms and trading posts or grocery stores.
  27. A true statement of the membership camping operator's ownership of or other right to use the camping properties represented to be available for use by purchasers, together with the duration of any lease, license, franchise or reciprocal agreement entitling the membership camping operator to use the property, and any material provisions of any agreements which restrict a purchaser's use of the property.
  28. A copy of the rules, restrictions or covenants regulating the purchaser's use of the membership camping operator's properties, including a statement of whether and how the rules, restrictions or covenants may be changed.
  29. A description of any restraints on the transfer of the membership camping contract.
  30. A true statement of the policies relating to the availability of camping sites and whether reservations are required.
  31. A true statement of any grounds for forfeiture of a purchaser's membership camping contract.
  32. Any other information, documents and certificates as the commissioner may reasonably require to clarify or ascertain the accuracy of the information required by this section.
- B. The application shall be signed by the membership camping operator, an officer or general partner of the membership camping operator or by another person holding a power of attorney for this purpose from the membership camping operator. If the application is signed pursuant to a power of attorney, a copy of the power of attorney or the resolution authorizing the signature shall be included with the application.
  - C. The application must be submitted on a form prescribed by the commissioner with the application fee.
- ~~An application for registration to offer to sell or sell membership camping contracts shall be amended when a material change to the information previously filed occurs.~~
- Language cleanup and changes location of amendment requirement to 32-2198.15.*
- 32-2198.03 A. The following transactions are exempt from the provisions of section 32-2198:
1. An offer, sale or transfer by any one person of not more than one membership camping contract in any twelve month period. Any agent for the person, participating in more than one transaction in a twelve-month period is not exempt from registration as a membership camping salesperson under this chapter if ~~he~~ THE AGENT receives a commission or similar payment for the sale or transfer.
  2. An offer or sale by a government or subdivision of a government agency.
  3. An offer, sale or transfer by a membership camping operator of a membership camping contract previously authorized if the offer, sale or transfer constitutes a transfer to an owner other than the original owner of the contract.
- IN THE COMMISSIONER'S DISCRETION the commissioner may by special order exempt from ANY ONE OR ALL OF the provisions of ~~section 32-2198 the offer for sale or~~ THIS ARTICLE the sale of membership camping contracts on written petition and a showing by the petitioner satisfactory to the commissioner that compliance with this ~~chapter~~ ARTICLE is not essential to the public interest or for the protection of

~~purchase~~ BUYERS BY REASON OF THE SPECIAL CHARACTERISTICS OF THE CONTRACTS OR THE LIMITED CHARACTER AND DURATION OF THE OFFER FOR SALE. SPECIAL ORDERS ISSUED PURSUANT TO THIS SECTION SHALL RELATE TO SPECIFIC CONTRACTS.

*Revises and clarifies the section relating to exemptions.*

32-2198.15 Change of membership camping plan after approval by commissioner; notice

IT IS UNLAWFUL FOR ANY OWNER

OR OPERATOR, AFTER SUBMITTING TO THE COMMISSIONER THE PLAN UNDER WHICH MEMBERSHIP CAMPING CONTRACTS ARE TO BE OFFERED FOR SALE AND SECURING THE COMMISSIONER'S APPROVAL, TO CHANGE THE PLAN MATERIALLY OR TO CONTINUE TO OFFER MEMBERSHIP CAMPING CONTRACTS FOR SALE AFTER A CHANGE HAS OCCURRED THAT MATERIALLY AFFECTS THE PLAN WITHOUT FIRST NOTIFYING THE COMMISSIONER IN WRITING OF THE CHANGE. THE COMMISSIONER MAY PRESCRIBE IN RULES CIRCUMSTANCES THAT CONSTITUTE A MATERIAL CHANGE UNDER THIS SECTION. ON RE-

CEIPT OF ANY NOTICE OF A MATERIAL CHANGE, THE COMMISSIONER MAY REQUIRE AMENDMENT OF THE PUBLIC REPORT AND, IF THE COMMISSIONER DETERMINES SUCH ACTION TO BE NECESSARY FOR THE PROTECTION OF PURCHASERS, MAY SUSPEND APPROVAL OF THE SALE PENDING AMENDMENT OF THE PUBLIC REPORT IN ACCORDANCE WITH SECTION 32-2157.

*Revises and clarifies the section relating to change of plans for membership camping contracts. Note deletion of 32-2198.01(D). The fee for amendment is contained in 32-2198.09.*

## Law book

*Continued from page 1*

law libraries, and contains many of the notes of decisions, historical and statutory notes and other annotations found in the bound volumes. The index has been greatly expanded.

The cost of the Law Book is \$13. The special seven-ring binder furnished with previous editions is available for \$3. The publication can be purchased at the Department's Phoenix and Tucson offices or by mail. To order your copy by mail, send your check for \$23 (includes \$3 for shipping) to Law Book, ADRE, 2910 N 44th St., Phoenix AZ 85018.

The *Arizona Real Estate Law Book* is also available on-line through the Department's World Wide Web site ([www.re.state.az.us](http://www.re.state.az.us)). From the Home Page, click on the link to the Law Book.

It should be noted, however, that

the on-line edition does not contain the extensive annotations found in the print edition.

Substantive Policy Statement No. 23 has been issued to clarify that "unrestricted access" to the Web, and thus to the on-line edition, satisfies the requirements of A.R.S. § 32-2123(E). This statute states that each active and inactive licensee shall have available for their use a current copy of the *Law Book*.

The Commissioner has defined "unrestricted access" as access to the Department's Web site at any time without the permission or assistance of others.

Several licensees have asked whether the on-line edition can be downloaded to a computer. You may print specific sections of the statutes from the Web, but no provisions have been made to download the book's more than 450 pages.

## Subdivision forms updated

Five of the most frequently used Subdivision Division forms have been updated and are available on the Department's Web site.

- Public Report Application (subdivided land);
- Public Report Application (unsubdivided land);
- Application for a Cemetery Certificate of Authority
- Time-Share Public Report Application
- Membership Camping Public Report Application.

In addition, two new forms have been made available, the Subdivision Update and the Notice of Intent to Accept Lot Reservations.

The forms are available from [www.re.state.az.us](http://www.re.state.az.us).